Executive Board of the United Nations Development Programme and of the United Nations Population Fund

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UNITED NATIONS POPULATION FUND

REVISION OF FINANCIAL REGULATIONS

Report of the Executive Director

1. The Executive Director hereby submits to the Executive Board for its approval, a revision to the existing Financial Regulation 14.5 related to ex gratia payments. An ex gratia payment, as defined under UNFPA Financial Regulations, is a payment made where there is no legal liability but the moral obligation is such as to make payment desirable in the interest of UNFPA.

2. UNFPA Financial Regulation 14.5 reads: "The Executive Director, may make such ex gratia payments not exceeding $25,000 as he/she deems to be necessary in the interest of UNFPA, provided that a statement of such payments shall be submitted to the General Assembly and the Executive Board with the accounts." This regulation was adopted by the Governing Council in decision 83/17 of 24 June 1983 and has not been changed since then.

3. However, in the aftermath of the bombing of the United Nations office in Algiers, it has become evident that under certain circumstances, ex gratia payments may need to exceed the limit currently set in the Financial Regulation 14.5. Therefore, UNFPA considers it important to be able to respond appropriately and in a timely manner in the future.

4. During the period 2005-2007, UNFPA made "ex-gratia payments" to two staff members for a total amount of $24,889. UNFPA does not expect the revision to the regulation to result in any significant impact for the Fund given the low number of payments which UNFPA has had to address to date. Furthermore, it should be underscored that with this change in its Financial Regulations and Rules, UNFPA is harmonizing its approach with those of the other United Nations funds and programmes, including UNDP.

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5. It should be further noted that while UNDP and UNFPA Financial Regulations currently contain a financial limitation on ex gratia payments, the United Nations Secretariat, UNICEF and WFP Financial Regulations do not contain any financial limitation. Also, UNDP is in the process of revising its relevant Financial Regulation to remove any financial limit. UNFPA is similarly harmonizing its regulation through the proposed amendment.

6. The proposed amended text of UNFPA Financial Regulation 14.5 is as follows: "Regulation 14.5: The Executive Director may make such ex gratia payments ~~not exceeding $25,000~~ as he/she deems to be necessary in the interest of UNFPA, provided that a statement of such payments shall be submitted to the General Assembly and the Executive Board with the accounts."

7. Following the approval of the Executive Board of the above-mentioned revision to Financial Regulation 14.5, UNFPA would make the necessary amendment in the corresponding Financial Rule 114.9, which currently reads:

> (a) Before approving an ex gratia payment, the Executive Director shall first ascertain that there is no legal liability on the part of UNFPA. For this purpose he/she shall refer the details of the case under consideration to the United Nations Office of Legal Affairs with a request for an opinion as to whether or not any legal liability exists. Following receipt of the opinion of the Legal Office that no legal liability exists, the Executive Director may approve an ex gratia payment if he/she is satisfied, after an examination of all relevant facts in the case, that the moral obligation to make such payment is such as to make payment desirable in the interest of UNFPA.
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> (b) The amount of the ex gratia payment shall be established on the basis of standards set by the Executive Director, but shall not exceed the maximum amount provided in Regulation 14.5

8. The following is the proposed amended text for Financial Rule 114.9, which would be in full harmonization with UNDP: "Ex gratia payments may be made in cases where in the opinion of the United Nations Population Fund Legal Officer there is no clear legal liability on the part of the United Nations Population Fund and where such payments are in the interest of the United Nations Population Fund."

Recommendation

9. **The Executive Board may wish to take note of the present report (DP/FPA/2008/15) and approve the revision to Financial Regulation 14.5 contained therein and take note of the corresponding amendment to Financial Rule 114.9.**